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Iraq, May 1991: As fighting spreads, nearly 2 million people seek refuge in Iran and Turkey and tens of thousands gather at the Iraq-Turkey border.

Myanmar, April 1992: More than 250,000 members of the Rohingya minority population are cast out of the country, saddling neighbouring Bangladesh with a host of exiles in need of sanctuary.

Kenya, July 1992: Some 400,000 refugees are in the country, having fled civil strife and drought in Somalia, Ethiopia and the Sudan, and hundreds more arrive daily.

Former Yugoslavia, August 1992: A brutal communal conflict drives more than 2.5 million people from their homes in the largest forced movement of peoples in Europe since 1945.

From Afghanistan to the Balkans, and from Haiti to the Horn of Africa, millions of people around the world are suffering under situations of extreme distress. But whether they are refugees, persons displaced within their own countries or other civilian victims of war and political upheaval, their plight is the same: they need immediate protection and assistance as well as long-term guarantees that they will be able to live in peace and return safely to their homes with confidence that their human rights will be respected.

Despite the numerous human rights violations routinely inflicted upon refugees—such as piracy, rape, detention in inhumane conditions and expulsion—human rights and humanitarian issues have grown up somewhat isolated from one another. One reason for this is that concern over human rights violations has usually focused on those occurring within countries.

But the gap is being bridged quickly as officials in both fields, helped by the swift pace of events, recognize the clear links between human rights and humanitarian situations. The topic is now on the agenda of the United Nations General Assembly, the United Nations Commission on Human Rights and other parts of the United Nations system.

In February 1992, the United Nations High Commissioner for Refugees, Sadako Ogata, spoke before the Commission on Human Rights about the close connection between lack of respect for human rights and the problem of refugees. "Human rights violations are a major cause of refugee flows," she said. "Although the immediate cause of most refugee movements is armed conflict or serious internal disturbance, human rights violations, combined with severe economic deprivation, usually lie at the root of the conflict or aggravate it. In situations where fear of persecution is the basis of flight, the link between human rights violations and refugee flows is even clearer."

Other links between refugee problems and human rights include abuses that occur in countries of asylum, which create complex protection problems, and the fact that the restoration of acceptable human rights conditions in the country of origin is a major factor in resolving long-standing refugee situations.

Article 14 of the United Nations Universal Declaration of Human Rights establishes the bond between refugees and human rights, stating that "everyone has the right to seek and to enjoy in other countries asylum from persecution". The main treaties covering refugees *per se* are the 1951 United Nations Convention Relating to the Status of Refugees and its 1967 Protocol. These two instruments form the basis of the international regime of refugee protection.

A refugee, the Convention reads, is "any person who . . . owing to well-founded fear of being persecuted for reasons of race, religion, nationality, membership of a particular social group or political opinion, is outside the country of his nationality and is unable or, owing to such fear, is unwilling to avail himself of the protection of that country; or who, not having a nationality and being outside the country of his former habitual residence as a result of such events, is unable or, owing to such fear, is unwilling to return to it". Under this definition, there are an estimated 17 million refugees in the world today.

The Convention and Protocol firmly establish the principle of "non-refoulement", which ensures protection for refugees against being returned to their country of origin against their will. The treaties also affirm the right of refugees to employment, education, public assistance, social security and travel documents.

Although many States have acceded to the Convention and/or the Protocol—110 of 179 United Nations Member States are States parties—adherence in some regions of the world is lacking. There are only eight States parties in Asia and Oceania, and, in the Middle East and

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North Africa, States parties number only seven.

Another problem involves limitations in the Convention itself. Compared to the 27 million people uprooted by the Second World War, in whose aftermath the Convention was drafted, today's refugees often fall outside the categories of persecution established as the basis for granting asylum.

For instance, if people cannot earn a living because their country is engulfed by civil war, are they victims of political persecution under the 1951 Convention? A similar question can be asked about chronic underdevelopment and living conditions that prevent people from securing their basic needs. Can the denial of social and economic rights be defined as persecution? What about cases when the denial of these rights is motivated by race, religion, political belief or because the victims belong to a specific ethnic group?

This broadening emphasis on circumstances in the country of origin underscores another of the Convention's perceived shortcomings —its "post-flight" emphasis. The stress given to the receiving country might suggest that the refugee problem is one of immigration controls and conditions of stay abroad. But, of course, the root causes of displacement, including violations of human rights, lie in the country of origin.

The Office of the United Nations High Commissioner for Refugees (UNHCR)—the leading international organization responsible for protecting and shepherding assistance to refugees—is increasing its work in this area, taking a more holistic view of the problems of refugees and paying particular attention to the full range of human rights protections.

Internally Displaced Persons

The internally displaced are those people who have been forced to flee their homes but have remained in their own country. There are at least 20 million displaced persons around the world, many of whom have suffered serious violations of their basic human rights. Indeed, the factors causing refugees and displaced persons to uproot themselves are often identical.

Of course, as human beings, internally displaced persons are supposed to benefit from basic international human rights standards, such as those in the Universal Declaration of Human Rights, the International Covenant on Economic, Social and Cultural Rights and the International Covenant on Civil and Political Rights. Yet there are no international standards specifically applicable to internally displaced persons, nor any single international body having the mandate or capacity for protecting their rights. According to a 1992 United Nations report:

"There is at present no clear statement of the human rights of internally displaced persons, or those at risk of becoming displaced. The applicable international law is a patchwork of customary and conventional standards: some of it is applicable to all persons, some of it is applicable only to certain subgroups of internally displaced persons (for instance those displaced because of armed conflict), and parts of it may not be applicable at all . . . ."

The situation faced by displaced persons, the 1992 report says, is an injustice which calls for the creation of an effective system to protect the rights of the internally displaced. Specifically, the report calls for fashioning from existing standards a single, comprehensive, universally applicable body of principles addressing the needs and problems of displaced persons.

It has also been pointed out that internally displaced persons who live away from borders are less likely to cross a border and qualify for international assistance as refugees. Such people find themselves in the unenviable position of failing to achieve refugee status while losing the protection of their own Governments. Considerable controversy surrounds the question of whether or not displaced persons should be known legally as de facto refugees.

The Need for Prevention

Ultimately, the situations which create flows of refugees and displaced persons must be prevented. Economic growth, sustainable development and observance of human rights in all countries are seen as basic needs for this to occur. As stated in a 1991 *Note on International Protection* by the High Commissioner for Refugees, prevention "requires more effective utilization of human-rights protection and development mechanisms. Strengthened observance of civil and political rights, but equally of economic, social and cultural rights, is fundamental in dealing with the root causes".

Preventive strategies that could be pursued before people begin to flee include human rights advisory services, monitoring by the international community, establishing national or regional structures for protecting minority rights, disseminating information about human rights, promoting mediation as a means of conflict resolution and encouraging tolerance for diversity and respect for human rights generally. Among other things, prevention can help ease the burden that refugee crises place upon developing countries. Poorer nations receive the lion's share of the world's refugees but have scarce resources available to cope with their needs.

States must play a central role in seeing that more emphasis is placed on prevention. Says Ms. Ogata, "States should exercise the political will to look into root causes and undertake action to solve the situation. The country of origin must accept responsibility for its own citizens, both in terms of preventing situations which can give rise to refugee flows and creating conditions which allow their safe and voluntary return. The principles of international solidarity and cooperation also demand that other States help the country of origin to fulfil this responsibility."

One of the keys to prevention is an effective early-warning system. The United Nations Centre for Human Rights in Geneva can play a paramount role in this regard by alerting the inter-

national community about impending mass exoduses growing out of situations involving human rights violations.

The Centre is also a member of the Ad Hoc Working Group on Early Warning Regarding New Flows of Refugees and Displaced Persons, which was established in April 1991 by the United Nations Administrative Committee on Coordination (ACC). The Working Group has been discussing the creation of an inter-agency consultative mechanism regarding potential new mass flows of refugees and displaced persons. At its last meeting, in June 1992, the Working Group made recommendations to the ACC concerning such a mechanism and also recommended that the newly created United Nations Department of Humanitarian Affairs (DHA) become the network's focal point.

In addition to DHA, other bodies represented in the Working Group are the United Nations Department of Economic and Social Development, the United Nations Department of Political Affairs, the Food and Agriculture Organization of the United Nations, the United Nations Educational, Scientific and Cultural Organization, the World Health Organization, the United Nations Environment Programme, the United Nations Development Programme, the United Nations Children's Fund, the World Food Programme and UNHCR.

The Question of Sovereignty

The involvement of the international community in offering humanitarian assistance and in efforts to prevent new flows of refugees and displaced persons means that the prickly issue of sovereignty must be addressed.

The Under-Secretary-General for Human Rights said in 1991 that "one of the principal challenges for the future [is] to devise ways of dealing with Governments and authorities who systematically and massively violate basic human rights. . . . The international debate is now opened on this delicate question: how to establish the balance between respect for fundamental human rights—especially in situations of massive and systematic violations—and the national and international prerogatives of States, reflected in the concept of sovereignty."

Speaking more specifically about the problem of internally displaced persons, Sadako Ogata has outlined the question as follows: "To what extent should national sovereignty shield Governments who disregard or are unable to fulfil their responsibilities towards their own citizens? How can international concern be balanced with the need to encourage Governments to accept greater responsibility for the plight of the displaced? These questions are crucial, because the response to internal displacement may be a means of preventing refugee flows."

Beyond simple humanitarian concern, the debate over sovereignty springs from the fact that violations of human rights can have ramifications and consequences that go beyond national borders. If violations in one State produce huge numbers of refugees seeking asylum in another, the argument that human rights are solely an internal affair loses much of its force. Indeed, the presence of refugees may become a source of tension between States, with the potential to threaten international peace and security.

The attempt to establish a "right of humanitarian intervention" has received considerable attention of late. Some analysts say that, despite strong objections by many countries that it would create a troubling precedent for political interference and other kinds of meddling, the balance in recent years has been shifting in favour of those in need. United Nations bodies have been part of the trend towards delineating this right.

In December 1991, the General Assembly approved a set of principles for strengthening the coordination of United Nations humanitarian assistance that appears to tread a middle ground. The principles stress that the sovereignty, territorial integrity and national unity of States should be fully respected in the provision of humanitarian assistance, but they also emphasize the importance of international emergency assistance. The Security Council, at its summit-level meeting in January 1992, declared that non-military threats to peace and security in "economic, social, humanitarian and ecological fields" will also be given high priority.

International Humanitarian Law

International humanitarian law is the branch of international law dealing with the protection of victims of armed conflicts. This body of norms has been developed and codified in the four Geneva Conventions for the protection of war victims adopted in 1949 and in two Additional Protocols adopted in 1977. The treaties restrict the use of violence against those who are not engaged in armed fighting and prohibit methods of warfare that cause unnecessary suffering or damage to the environment.

Both the Conventions and the Protocols were adopted under the aegis of the International Committee of the Red Cross (ICRC)—the body which, under these treaties, has the mandate to protect and assist war victims. But many others have a role in ensuring respect for international humanitarian law—States parties, the International Red Cross and Red Crescent Movement, the United Nations and its agencies, other intergovernmental organizations, regional organizations and humanitarian non-governmental organizations (NGOs).

The lack of wider ratification has placed certain limits on the treaties' effectiveness. While the 1949 Conventions have been ratified or acceded to by 170 countries, the 1977 Protocols have not yet reached that level. The First Protocol (on victims of international conflicts) has 115 States parties; the Second Protocol (on victims of internal conflict) has 105 States parties. Nonetheless, the United Nations has invoked the Geneva Conventions and Protocols often, most recently in the case of the former Yugoslavia and of the Israeli-occupied territories.

On 13 July 1992, the Security Council reaffirmed that all parties to the conflict in the former Yugoslavia are bound to comply with the obligations under international humanitarian law and the Geneva Conventions and that persons who commit or order the commission of grave breaches of the Conventions are individually responsible. One month later, the Council called on States and humanitarian organizations to gather information on violations of humanitarian law, including grave breaches of the Geneva Conventions, being committed in the territory of the former Yugoslavia and to transmit such information to the Council.

Regarding the Israeli-occupied territories, the Council and the General Assembly have stated repeatedly that the Geneva Convention relative to the Protection of Civilian Persons in Time of War is applicable to all the territories occupied by Israel since 1967, and have urged Israel to abide by its provisions.

The United Nations has played a role in developing international humanitarian law. The Convention on the Prevention and Punishment of the Crime of Genocide, approved by the General Assembly in 1948, states that genocide, whether committed in peace or in war, is a crime under international law which the States parties undertake to prevent and punish. The Declaration on the Protection of Women and Children in Emergency and Armed Conflict, proclaimed by the Assembly in 1974, states that attacks on civilians, especially on women and children, shall be prohibited and condemned.

As requested by a resolution approved by the General Assembly in December 1991, the United Nations has moved to strengthen the coordination of humanitarian assistance. In February 1992, the Secretary-General appointed the Organization's first Emergency Relief Coordinator to ensure leadership for rapid and coherent response to natural disasters and other emergencies.

The Coordinator, Jan Eliasson, heads the new United Nations Department of Humanitarian Affairs (DHA), which is responsible for coordinating all United Nations emergency assistance and for all emergency relief activities, including programmes under way in the Horn of Africa, Iraq, Afghanistan and Central America.

DHA consolidates within one body existing United Nations offices that deal with complex emergencies and will draw on the resources of the United Nations Disaster Relief Organization (UNDRO). In that respect, Mr. Eliasson also assumed the functions previously carried out by the United Nations Disaster Relief Coordinator.

UNDRO was founded in 1971 in response to a series of major natural disasters in the late 1960s and early 1970s. Since then, the scope of relief efforts has broadened to include famine, drought, desertification and man-made disasters such as civil strife. The creation of DHA is the natural outgrowth of the widening nature of humanitarian assistance provided by the United Nations.

The Emergency Relief Coordinator is also in charge of the management of the Central Emergency Revolving Fund, which was established by the Secretary-General as a cash-flow mechanism of $50 million to ensure a rapid and coordinated response to emergencies. The Fund is financed by voluntary contributions from Governments. In June 1992, its first allocation of $2 million went to UNICEF, which will use the funds to provide water, emergency drugs, vaccines and shelter to areas of Kenya stricken by drought and facing an unprecedented refugee influx.

Acute emergencies throughout the world continue to highlight the fact that human rights and humanitarian issues can no longer be viewed in isolation from one another. This linkage will be a major consideration in discussions at the World Conference on Human Rights to be held in Vienna in June 1993. The High Commissioner for Refugees has suggested three basic human rights issues for consideration:

The right of freedom of movement. A person who is compelled to leave his or her own country or denied the right to return is a person whose basic right of freedom of movement has been violated.

The right to a nationality. States have the responsibility to reduce statelessness and to provide for the possibility for individuals to enjoy the normal rights of nationality.

The question of human rights and mass exoduses, and in particular the responsibilities of countries from which people are forced to flee.

Another subject already receiving attention is the need for greater synergy between human rights law, refugee law and humanitarian law. The three fields are closely interrelated and often overlap, but have evolved separately. Many observers, citing uneven enforcement of human rights instruments, gaps and uncertainties in refugee law and the limited circumstances under which humanitarian law can be applied, have called for strengthening and integrating the legal framework covering refugees, displaced persons and other civilians affected by emergencies.

Mass movements of peoples are expected to remain a feature of the emerging global landscape. Experts contend that regardless of whether such exoduses range within or beyond national frontiers, they are not likely to be resolved in isolation from the major political and economic challenges facing States and the international community. Towards that end, a better understanding of the links between human rights and humanitarian issues, and among protection of human rights, good governance and sustainable development, will need to be part of the quest for solutions.

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